

OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

JUL 24 1985

JAMES R. SOLOMON, JR.
DEPUTY ATTORNEY GENERAL
WILLIAM M. BEKURS, JR.
EXECUTIVE ASSISTANT
WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL
JANIE NOBLES
ADMINISTRATIVE ASSISTANT

OPINION MODIFIED

Date: Sept. 3, 1985
To: Yetta G. Samford, Jr.
File: 85-DD498

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

Honorable Yetta G. Samford, Jr.
Attorney for Lee County Commission
Samford, Denson, Horsley, Pettey,
Martin & Barrett
P. O. Box 2345
Opelika, Alabama 36803-2345

Sheriffs - Retirement -
Benefits

Sheriff of Lee County is not
included in Sheriffs'
Retirement System provided for
at Code of Alabama 1975,
Section 36-22-40 et seq.

Dear Mr. Samford:

The Attorney General received the request by the Lee
County Commission for an opinion regarding the following
question:

"The Lee County Commission requests
your opinion on the following question:
If the Lee County Commission determines
to make payments to an eligible former
sheriff under the provisions of Sections
36-22-40, et seq. 1975 Code of Alabama as
amended, must payments be in the amount
of Seven Hundred Fifty and No/100
(\$750.00) per month as provided in
Section 36-22-43, as amended, or may
payments, in the discretion of the
Commission, be in an amount less than
Seven Hundred Fifty and No/100 (\$750.00)
per month."

Code of Alabama 1975, Section 36-22-40 through Section
36-22-45 concerns the Sheriffs' Retirement System of this

Honorable Yetta G. Samford, Jr.
Attorney for Lee County Commission
Page Two

state. However, I call your attention to Section 36-22-45 which states:

"No part of this article shall apply to counties having a population of 175,000 to 300,000, nor those counties having a population of 90,000 to 100,000.

The provisions of this article shall not affect Lee County."

(Emphasis added)

According to this provision, the Sheriff of Lee County is not to be included in the Sheriffs' Retirement System provided by those statutes found at Code of Alabama 1975, Section 36-22-40 et seq. Therefore, your question is moot.

If the Sheriff of Lee County is covered by another retirement system then the rules and regulations of that system must be followed.

If our office can be of assistance to you in the future, please let us know.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL

BY:



LYNDA KNIGHT OSWALD
ASSISTANT ATTORNEY GENERAL

CAG:lo:w